



0000064303

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

DEC - 5 2006

JEFF HATCH-MILLER, Chairman
 WILLIAM A. MUNDELL
 MIKE GLEASON
 KRISTIN K. MAYES
 BARRY WONG

DOCKETED BY

ne

IN THE MATTER OF THE COMMISSION ON ITS
 OWN MOTION INVESTIGATING THE FAILURE
 OF NUMEROUS UTILITIES TO FILE ANNUAL
 REPORTS FOR CALENDAR YEAR 2002.

DOCKET NO. C-00000A-06-0195

DECISION NO. 69180OPINION AND ORDER

DATE OF PRE-HEARING:

September 6, 2006

DATE OF HEARING:

October 4, 2006

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. Charles Haines, Staff Attorney, Legal Division, on
 behalf of the Utilities Division of the Arizona
 Corporation Commission.

BY THE COMMISSION:

On May 5, 2006, the Arizona Corporation Commission ("Commission") issued Decision No.
 68687, a Complaint and Order to Show Cause ("Complaint" or "OSC") against the following named
 Respondents¹ for failing to file their 2002 Utilities Division Annual Reports ("Annual Reports"):

DOCKET NO.COMPANY

T-04017A-06-0195

Amiga Enterprises

T-03942A-06-0195

Comtel Network, LLC

T-02940A-06-0195

Dillon Enterprises

T-03482A-06-0195

Discount Utilities, LLC

T-03021A-06-0195

E.Spire

T-03220A-06-0195

ETI - Telecommunications

T-03836A-06-0195

Excell Agent Services, LLC

T-03833A-06-0195

EZTel Network Services, LLC

W-02271A-06-0195

Green Acres Water Company

T-03251A-06-0195

Group Long Distance, Inc.

W-01557A-06-0195

Lake Verde Water Company

¹ The named Respondents shall hereinafter be referred to as the Non-filing Respondents.

W-02504A-06-0195

T-03244A-06-0195

T-02939A-06-0195

T-03821A-06-0195

T-03878A-06-0195

T-03737A-06-0195

T-03928A-06-0195

W-02003A-06-0195

W-01084A-06-0195

T-03650A-06-0195

W-01407A-06-0195

W-02386A-06-0195

T-04167A-06-0195

T-03262A-06-0195

T-02885A-06-0195

T-03558A-06-0195

W-02274A-06-0195

T-03988A-06-0195

T-03165A-06-0195

Meadow Water Company

Metrophone Telecommunications, Inc.

MTV World Payphones

NAS

Natel, LLC

Promise-Net International, LTD

Raptel Communications, LLC

Rillito Water Users Association

Salome Water Company²

Special Accounts Billing Group, Inc.

Strawberry Water Company

Sun Leisure Estates Utilities Company, Inc.³

Tele globe USA, LLC

Tele-Pro Independent Contractors, LLC

Trattoria Pina

United States Telecommunications, Inc.

Verde West Irrigation

Wilshire Connection, LLC

Zenex Long Distance, Inc.

Therein, the Commission ordered a hearing to be conducted at a date and time set by the Hearing Division.

On July 13, 2006, by Procedural Order, a pre-hearing conference was scheduled on the Complaint against the above-named Non-filing Respondents. The Commission's Utilities Division ("Staff") was ordered to file a Memorandum by September 1, 2006 to indicate which, if any, Non-filing Respondents filed their 2002 Annual Reports so they could be dismissed from the proceeding.

On September 1, 2006, Staff filed its Memorandum indicating that as of that date two utilities had filed their 2002 Annual Reports and requested that they be dismissed from the proceeding.

On September 6, 2006, a pre-hearing conference was held at the Commission's offices in Phoenix, Arizona. Staff appeared with counsel. No appearances were entered by any of the Non-filing Respondents.

On October 4, 2006, a full public hearing was held by the Commission at its offices in Phoenix, Arizona before a duly authorized Administrative Law Judge of the Commission. Staff appeared with counsel. No other parties named in the proceeding appeared. At the conclusion of the

² This Respondent's name appears in error since its Certificate of Convenience and Necessity ("Certificate") was revoked in Decision No. 64395 (January 31, 2002) for failing to file its 1999 Annual Report.

³ This Respondent's name appears in error since its Certificate was revoked in Decision No. 65649 (February 19, 2003) for failing to file its 2001 Annual Report.

1 hearing, the matter was taken under advisement pending submission of a Recommended Opinion and
 2 Order to the Commission.

3 * * * * *

4 Having considered the entire record herein and being fully advised in the premises, the
 5 Commission finds, concludes, and orders that:

6 **FINDINGS OF FACT**

7 1. Pursuant to authority granted by the Commission, the Non-Filing Respondents were
 8 authorized to conduct business at various times in Arizona as public utilities.

9 2. On May 5, 2006, the Commission issued Decision No. 68687, a Complaint against the
 10 Non-filing Respondents described above due to their failure to file their 2002 Annual Reports.

11 3. On September 1, 2006, Staff filed its Memorandum which Staff's witness, Ms. Kim
 12 Batista, the Chief of Compliance, amended at the hearing, indicating that Green Acres Water
 13 Company, Rillito Water Users Association and Strawberry Water Company had filed their 2002
 14 Annual Reports and should be dismissed from the proceeding.⁴ Ms. Batista also recommended that
 15 Verde West Irrigation be dismissed due to ownership issues because no information is available to
 16 file its Annual Report.

17 4. Ms. Batista further indicated that a number of telephone utilities have filed
 18 applications for the cancellation of their Certificates and should be dismissed from the proceeding as
 19 follows: MTV World Payphones; NAS; Raptel Communications, L.L.C.; Teleglobe USA, L.L.C.;
 20 and Trattoria Pina.⁵ Staff indicates their Certificates will be cancelled by subsequent proceedings.

21 5. Commission records reveal that of the above-named Non-filing Respondents, Salome
 22 Water Company and Sun Leisure Estates Utility Company, Inc., had their Certificates revoked by
 23 prior Commission Orders.

24 6. Notice of the proceeding was given in the manner prescribed by law.

25 7. A number of the Procedural Orders which contained the notice of the proceeding's
 26 pre-hearing conference and the hearing that were mailed to the Non-filing Respondents' last known
 27

28 ⁴ These Respondents are hereinafter known as the Late-filed Respondents.

⁵ These Respondents are hereinafter known as the Cancellation Respondents.

1 address were returned to the Commission with notations such as "return to sender, no forwarding
2 order on file", "moved, left no address, unable to forward", and "forwarding order expired". Those
3 non-filing Respondents included: NAS; E.Spire; United States Telecommunications; Zenex Long
4 Distance; Metrophone Telecommunications, Inc.; Dillon Enterprises; ETI Telecommunications;
5 Meadow Water Company; Lake Verde Water Company; Amiga Enterprises; and Promise-Net
6 International, Ltd.

7 8. Ms. Batista testified that the Complaint had been filed because the various utility
8 companies and/or entities that were described above as the Non-filing Respondents had failed to file
9 their 2002 Annual Reports.

10 9. Ms. Batista indicated that the Commission sent out delinquent notices to all of the
11 above-referenced utilities and/or entities to advise them that they had failed to file their 2002 Annual
12 Reports. Following the mailing of the delinquent notices, personal phone calls to each of the utilities
13 along with follow-up phone calls were made in an attempt to secure compliance with the requirement
14 that the utilities file their 2002 Annual Reports. Since there was continued non-compliance, the
15 Complaint was prepared and filed.

16 10. While Staff believes the Non-filing Respondent water utilities are providing service, it
17 does not have any information whether the telecommunications utilities are still providing service.

18 11. Staff is recommending that the Certificates of the Non-filing Respondents which have
19 either failed to file their 2002 Annual Reports and/or failed to advise the Commission of their proper
20 mailing addresses be revoked and the utility and/or entity be penalized.

21 12. Based upon our review of the record, we believe that Staff's recommendations with
22 respect to the Late-filed Respondents and Verde West Irrigation are appropriate and they should be
23 dismissed from the proceeding. With respect to the above-described Non-filing Respondents, their
24 Certificates should be revoked and they should also be assessed financial penalties. However, if any
25 affected Non-filing Respondent files, within 60 days of the effective date of this Decision, its 2002
26 Annual Report, then the Order of revocation and penalty as to that utility and/or entity should be
27 rendered null and void without further Order by the Commission.

28 13. We further find that Staff's recommendation to dismiss the Cancellation Respondents

from this proceeding is reasonable and should be approved.

CONCLUSIONS OF LAW

1. The above-referenced Non-filing Respondents are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

2. The Commission has jurisdiction over the Non-filing Respondents and of the subject matter of the Complaint herein.

3. The revocation of the Certificates of the remaining Non-filing Respondents as described above would benefit the public interest.

4. The Complaint against the Late-filed Respondents, Verde West Irrigation, the Cancellation Respondents and the previously revoked Respondents should be dismissed.

5. Pursuant to A.R.S. § 40-425, the remaining Non-filing Respondents should also each be penalized the sum of \$200 unless, within 60 days of the effective date of this Decision, the remaining Non-filing Respondent files its 2002 Annual Report.

ORDER

IT IS THEREFORE ORDERED that the Certificates of Convenience and Necessity of the remaining Non-filing Respondents and the authorizations therein be revoked as follows:

<u>DOCKET NO.</u>	<u>COMPANY</u>
T-04017A-06-0195	Amiga Enterprises
T-03942A-06-0195	Comtel Network, LLC
T-02940A-06-0195	Dillon Enterprises
T-03482A-06-0195	Discount Utilities, LLC
T-03021A-06-0195	E.Spire
T-03220A-06-0195	ETI – Telecommunications
T-03836A-06-0195	Excell Agent Services, LLC
T-03833A-06-0195	EZTel Network Services, LLC
T-03251A-06-0195	Group Long Distance, Inc.
W-01557A-06-0195	Lake Verde Water Company
W-02504A-06-0195	Meadow Water Company
T-03244A-06-0195	Metrophone Telecommunications, Inc.
T-03878A-06-0195	Natel, LLC
T-03737A-06-0195	Promise-Net International, LTD
T-03650A-06-0195	Special Accounts Billing Group, Inc.
T-03262A-06-0195	Tele-Pro Independent Contractors, LLC
T-03558A-06-0195	United States Telecommunications, Inc.

T-03988A-06-0195
T-03165A-06-0195

Wilshire Connection, LLC
Zenex Long Distance, Inc.

IT IS FURTHER ORDERED that the Complaint against Verde West Irrigation, the Late-filed Respondents: Green Acres Water Company; Rillito Water Users Association; and Strawberry Water Company; the Cancellation Respondents: MTV World Payphones; NAS; Raptel Communications; L.L.C.; Teleglobe USA, L.L.C.; and Trattoria Pina; and the previously revoked Respondents, Salome Water Company and Sun Leisure Estates Utility Company, Inc., is hereby dismissed.

IT IS FURTHER ORDERED that the above-named Non-filing Respondents shall each be penalized the sum of \$200 unless, within 60 days of the effective date of this Decision, the above-named Non-filing Respondent files its 2002 Utilities Division Annual Report with the Director of the Commission's Utilities Division, then said revocation and financial penalty shall be null and void without further Order by the Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

Jeffrey M. Hatch-Miller
CHAIRMAN

William Miller
COMMISSIONER

James L. Hutton
COMMISSIONER

Robert M. [Signature]
COMMISSIONER

Bryan [Signature]
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 5th day of Dec., 2006.

Brian C. McNeil
BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SERVICE LIST FOR:

2002 ANNUAL REPORTS

DOCKET NO.:

C-00000A-06-0195

Lance Steinhart

1720 Windward Concourse, Ste. 250

Alpharetta, GA 30005

Attorney for EZTel Networks, Service, LLC,
Natel, LLC and Wilshire Connections

Amiga Enterprises

3853 E. Dulciana Avenue

Mesa, AZ 85206

E. Spire

7125 Columbia Gateway Drive, Ste. 200

Columbia, MD 21046

David Aduddell

3705 W Memorial

Oklahoma City, OK 73134

Attorney for Zenex Long Distance, Inc.

Patrick Crocker

900 Comerica Building

Kalamazoo, MI 49007-4752

Attorney for Special Accounts Billing Group

Dillon Enterprises

14490 E. Elgin St

Gilbert, AZ 85296

Glenn Richards

2001 Pennsylvania Ave NW, Ste. 400

Washington, DC 20006

Attorney for United States

Telecommunications

Trattoria Pina

5541 N. Swan Rd.

Tucson, AZ 85718

David Klein

485 Madison Avenue, 15th Floor

New York, NY 10022

Attorney for Raptel Communications

Green Acres Water Company

2300 W. 32nd Street

Yuma, AZ 85364

Cara Sheppard

1400 16th Street NW

Washington, DC 20036

Attorney for Excell Agent Services, LLC

Salome Water Company

PO Box 550

Salome, AZ 85348

Monica Haab

3500 N. Causeway Blvd., Ste. 1442

Metairie, LA 70005

Attorney for Comtel Network LLC

Strawberry Water Company

RT. 1, Box 702

Strawberry, AZ 85544

EllenAnn Sands

3500 North Causeway Blvd., Ste. 1442

Metairie, Louisiana 70002

Attorney for Group Long Distance, Inc.

Lawrence Robertson, Jr.

Munger Chadwick

PO Box 1448

Tubac, AZ 85646

Tele-Pro Independent Contractors, LLC

3331 E. Waltann Lane

Phoenix, AZ 85032

Metrophone Telecommunications, Inc.

2020-124th Ave. NE C-103

Bellevue, WA 98005

ETI Telecommunications

9500 Toledo Way

Irvine, CA 92618

1 Mark Nyhus
2 4312 92nd Ave NW
3 Gig Harbor, WA 98335
4 Attorney for Discount Utilities, LLC

5 Gayle Riekana
6 3220 Uddenburg Lane, Ste. 4
7 Gig Harbor, WA 98335
8 Attorney for Promise-Net International, Ltd.

9 Verde West Irrigation
10 PO Box 744
11 Camp Verde, AZ 86322

12 Meadow Water Company
13 PO Box 2777
14 Prescott, AZ 86302

15 Lake Verde Water Company
16 P.O. Box 2777
17 Prescott, AZ 86302

18 NAS
19 13650 Dulles Technology Drive
20 Herndon, VA 20171

21 Rillito Water Users Association
22 P.O. Box 669
23 Rillito, AZ 85654

24 Sun Leisure Estates Utilities Company, Inc.
25 Crites & Associates
26 P.O. Box 5681
27 Yuma, AZ 85366

28 Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, AZ 85007